§ 4416. Staff of Institute

(a) Exemption from civil service

Except as otherwise provided in this section, title 5 shall not apply to the Institute.

(b) Appointment and compensation

(1) The President of the Institute, with the approval of the Board, shall have the authority to appoint, fix the compensation of (including health and retirement benefits), and prescribe the duties of, such officers and employees as the President of the Institute deems necessary for the efficient administration of the Institute.

(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and positions, to whom chapter 51 of title 5 applies. If the Board determines that such action is necessary for purposes of recruitment or retention of officers or employees necessary to the functions of the Institute, the Board is authorized, by formal action, to establish a rate of, or a range for, basic compensation that is comparable to the rate of compensation paid to officers or employees having similar duties and responsibilities in other institutions of higher education.

(3) (A) Not later than 180 days after the President of the Institute is appointed, the President of the Institute shall make policies and procedures governing—

(i) the establishment of positions at the Institute,

(ii) basic compensation for such positions (including health and retirement benefits),

(iii) entitlement to compensation,

(iv) conditions of employment,

(v) discharge from employment,

(vi) the leave system, and

(vii) such other matters as may be appropriate.

(B) Rules and regulations promulgated with respect to discharge and conditions of employment shall require—

(i) that procedures be established for the rapid and equitable resolution of grievances of such individuals; and

(ii) that no individual may be discharged without notice of the reasons therefor and an opportunity for a hearing under procedures that comport with the requirements of due process.

(c) Appeal to Board

Any officer or employee of the Institute may appeal to the Board any determination by the President of the Institute to not re-employ or to discharge such officer or employee. Upon appeal, the Board may, in writing, overturn the determination of the President of the Institute with respect to the employment of such officer or employee.

(d) No reduction in classification or compensation

Individuals who elect to remain civil service employees shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions and personnel, except that any such transfer shall not result in a reduction in classification or compensation with respect to any such individual for at least one year after the date on which such transfer occurs.
(e) Leave

(1) Any individual who—
   (A) elects under subsection (g) of this section to be covered under the provisions of this section, or
   (B) is an employee of the Federal Government and is transferred or reappointed, without a break in service, from a position under a different leave system to the Institute, shall be credited for purposes of the leave system provided under rules and regulations promulgated pursuant to subsection (b) of this section, with the annual and sick leave to the credit of such individual immediately before the effective date of such election, transfer, or reappointment.

(2) Upon termination of employment with the Institute, any annual leave remaining to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, except that leave earned or accrued under rules and regulations promulgated pursuant to subsection (b) of this section shall not be so liquidated.

(3) In the case of any individual who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, any remaining leave to the credit of such person earned or credited under the rules and regulations promulgated pursuant to subsection (b) of this section shall be transferred to the credit of such individual in the employing agency on an adjusted basis in accordance with the rules and regulations which shall be promulgated by the Office of Personnel Management.

(f) Applicability

(1) This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g) of this section, the enactment of this chapter shall not affect—
   (A) the continued employment of any individual employed before October 17, 1986; or
   (B) such individual’s right to receive the compensation attached to such position.

(2) This section shall not apply to an individual whose services are procured by the Institute pursuant to a written procurement contract.

(3) This section shall not apply to employees of an entity performing services pursuant to a written contract with the Institute.

(g) Termination of civil service positions

(1) On June 30, 1989, any position at the Institute which is occupied by an individual in the civil service shall terminate. During such period, such individual may make an irrevocable election to be covered under the provisions of this section, except that any such individual who is subject to subchapter III of chapter 83 of title 5 may elect to continue to be subject to such subchapter, and any such individual who is subject to chapter 84 of such title may elect to continue to be subject to such chapter.

(2) Any individual who makes an election under paragraph (1) to continue to be subject to subchapter III of chapter 83 of title 5 or chapter 84 of such title shall, so long as continually employed by the Institute without a break in service subject to such subchapter or such chapter 84, as the case may be, continue to be treated as an employee subject to such subchapter or such chapter 84, as the case may be. Employment by the Institute without a break of continuity in service shall be considered to be employment by the United States Government for the purpose of such subchapter or such chapter 84, as the case may be. The Institute shall be responsible for making the contributions required to be made by an employing agency under such subchapter or such chapter 84, as the case may be.

(h) Collective bargaining

The Institute shall be considered an agency for the purpose of chapter 71 of title 5.

(i) Workmen’s compensation
Employees of the Institute shall receive compensation for work injuries and illnesses in accordance with chapter 81 of title 5.


References in Text

The General Schedule, referred to in subsec. (b)(2), is set out under section 5332 of Title 5, Government Organization and Employees.

Amendments

1994—Subsec. (f). Pub. L. 103–382 amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: “This section shall apply to any individual appointed after October 17, 1986, for employment in the Institute. Except as provided in subsections (d) and (g) of this section, the enactment of this chapter shall not affect—
“(1) the continued employment of any individual employed immediately before October 17, 1986, or
“(2) such individual’s right to receive the compensation attached to such position.”

1992—Subsec. (b)(2). Pub. L. 102–325 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5 applies.”

1988—Subsec. (g)(1). Pub. L. 100–297 substituted “On June 30, 1989” for “At the end of the 2-year period beginning on the date referred to in section 4421 (f) of this title”.

Effective Date of 1992 Amendment


Effective Date of 1988 Amendment

For effective date and applicability of amendment by Pub. L. 100–297, see section 6303 of Pub. L. 100–297, set out as a note under section 1071 of this title.